REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 1-8 are presently active in this application. Claims 1 and 5 having been amended by the present response. Support for amendments can be found in the disclosure as originally filed. Thus, no new matter is added.

In the outstanding Office Action, Claims 1-8 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctively claim the subject matter; and Claims 1-8 were provisionally rejected on the grounds of non-statutory obviousness type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/502,038.

With regard to the rejection of Claims 1-8 under 35 U.S.C. §112, second paragraph, Applicants have amended Claims 1 and 5 to overcome the rejection. Specifically, amended Claim 1 recites,

> A method of making a master for manufacturing an optical disc, comprising:
>
> exposing an inorganic resist layer formed on a substrate to recording laser light modulated by an information signal corresponding to an information signal of an information concave and convex pattern formed on said optical disc to form an exposed pattern corresponding to said information concave and convex pattern of said optical disc, and
>
> performing development processing on said inorganic resist layer to form a concave and convex pattern corresponding to said information concave and convex pattern of said inorganic resist layer, wherein
>
> a trial exposure is performed on a non-recording area of said resist layer, evaluation laser light is irradiated on the non-recording area of said resist layer to evaluate a recording signal characteristic of said resist layer from the reflected light, and based on an evaluation result an adjustment of an exposure focusing position is performed to determine an optimum focus position of recording laser light which is later performed.

Claim 5 has been likewise amended.

As is noted above, Applicants have amended Claim 1 to further advance prosecution. Amended Claim 1 now clarifies that the evaluation laser light is irradiated on the non-recording area of said resist layer to evaluate a recording signal characteristic of said resist layer from the reflected light. Applicants have also amended Claim 1 to clarify that a trial exposure occurs in the performing development processing on said inorganic resist layer. Finally, Applicants have removed the "after the preceding step" language that was previously present in paragraph 2 of Claim 1.

Thus, in view of amended Claim 1, it is believed that all pending claims are definite and no further rejection on that basis is anticipated. If, however, further clarification is believed to be necessary, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

Accordingly, Applicants respectfully request that the rejection of Claims 1 and 5 under 35 U.S.C. §112, second paragraph, as being indefinite be withdrawn.

In response to the provisional double patenting rejection of Claims 1-8 over the claims of Application No. 10/502,038, Applicants respectfully traverse this rejection. However, in order to further prosecution in the present application, a Terminal Disclaimer is filed herewith thereby overcoming the rejection. Applicant notes that the filing of a Terminal Disclaimer to obviate the rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.[1]

Accordingly, Applicants respectfully request that the rejection of Claims 1-8 on the ground of non-statutory obviousness-type double patenting be withdrawn.

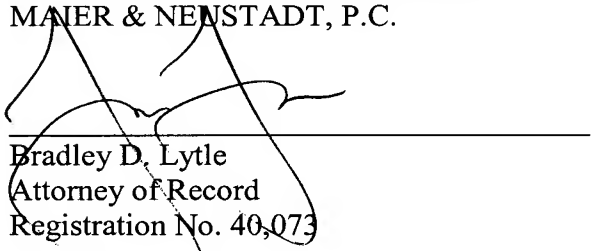
[1] *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), indicating that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

James Love
Registration No. 58,421

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)
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